

Assembly Bill No. 909

Passed the Assembly September 10, 2013

Chief Clerk of the Assembly

Passed the Senate September 9, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Title 11.8 (commencing with Section 14190.15) to Part 4 of the Penal Code, relating to metal theft.

LEGISLATIVE COUNSEL'S DIGEST

AB 909, Gray. Metal theft and related recycling crimes.

Existing law provides that any person who feloniously steals, takes, or carries away the personal property of another, or who fraudulently appropriates property that has been entrusted to him or her, is guilty of theft. Existing law also provides that a person who, being a dealer in or collector of junk, metals, or secondhand materials, buys or receives any wire, cable, copper, lead, solder, mercury, iron, or brass that he or she knows or reasonably should know is ordinarily used by, or ordinarily belongs to, a railroad or other transportation, telephone, telegraph, gas, water, or electric light company or county, city, or city and county without using due diligence to ascertain that the person selling or delivering the same has a legal right to do so, is guilty of criminally receiving that property.

Existing law establishes the Department of Justice, which is headed by the Attorney General and tasked with, among other things, representing California in criminal cases.

This bill, on and after January 1, 2015, would require the Department of Justice to establish a Metal Theft Task Force Program to provide grants to applicant regional task forces for the purpose of providing local law enforcement and district attorneys with the tools necessary to successfully interdict the commission of metal theft and related metal recycling crimes. The bill, on and after January 1, 2015, would establish the Metal Theft Task Force Fund, to be administered by the department, and, upon appropriation by the Legislature, would make moneys in the fund available for the purposes of the program.

The bill would require the department to regularly review the program and report to the Governor and the Legislature, and would specify that the program not be implemented until the Department of Finance determines that sufficient funding has been deposited in the Metal Theft Task Force Fund to implement the program and

funds have been made available upon appropriation by the Legislature.

This bill would also state findings and declarations of the Legislature relative to metal theft and the intent of the Legislature to provide local law enforcement with the tools to interdict metal theft and related metal recycling crimes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares both of the following:

(a) The theft of metal is a serious problem in California. Losses due to metal theft are not limited to the value of the metal taken, but frequently include the cost of repairing or replacing the infrastructure, component, or item from which the metal was removed, which greatly exceeds the value of the metal itself.

(b) The United States Department of Energy estimates that metal theft costs United States businesses approximately one billion dollars (\$1,000,000,000) annually.

(c) It is the intent of the Legislature in enacting this act to provide local law enforcement and district attorneys with the tools necessary to successfully interdict the commission of metal theft and related metal recycling crimes.

SEC. 2. Title 11.8 (commencing with Section 14190.15) is added to Part 4 of the Penal Code, to read:

TITLE 11.8. THEFT AND RECYCLING OF METALS

14190.15. For the purposes of this title, the following terms have the following meanings:

(a) "Fund" means the Metal Theft Task Force Fund.

(b) "Department" means the Department of Justice.

(c) "Program" means the Metal Theft Task Force Program.

14190.20. (a) The Metal Theft Task Force Fund is hereby established within the State Treasury. Transfers to the Metal Theft Task Force Fund shall be deposited in the Treasury, or in a state depository bank approved by the Treasurer. These funds shall, upon appropriation by the Legislature, be available for the purposes set forth in this title.

(b) The fund shall consist of moneys deposited into the fund from the federal government, industry, and private sources. General Fund moneys shall not be deposited into the fund nor used to start up, implement, or support the continuing administration of the provisions of this title.

(c) Funds provided under this program are intended to ensure that law enforcement is equipped with the necessary personnel and tools to successfully combat metal theft and related recycling crimes, which include, but are not limited to, all of the following offenses:

(1) The theft of metals, including, but not limited to, nonferrous metals.

(2) The purchase and recycling of stolen metals, including, but not limited to, recycled metal beverage containers, by recyclers.

(3) The transportation of stolen metals from this state to another state.

(4) The transportation of stolen metals from another state to this state.

14190.25. (a) The fund shall be administered by the department.

(b) The department may adopt regulations as needed to administer this title.

(c) Administration of the overall program and the evaluation and monitoring of all grants made pursuant to this title shall be performed by the department.

14190.30. (a) The department shall establish the Metal Theft Task Force Program. Administration of the overall program and the evaluation and monitoring of all grants made pursuant to this title shall be performed by the department.

(b) Moneys appropriated to the department for the program shall be expended to fund programs that enhance the capacity of local law enforcement and prosecutors to deter, investigate, and prosecute metal theft and related recycling crimes.

(c) After deduction of the department's actual and necessary administrative costs, the funds shall be expended to fund programs to enhance the capacity of local law enforcement and prosecutors to deter, investigate, and prosecute metal theft and related recycling crimes.

(d) Funds distributed under this program shall be expended for the exclusive purpose of deterring, investigating, and prosecuting metal theft and related recycling crimes.

(e) The funds may, upon appropriation, be used for developing and maintaining a statewide database on metal theft and related recycling crimes for use in developing and distributing intelligence information to participating law enforcement agencies.

14190.35. (a) The department shall develop specific guidelines and administrative procedures for the selection of regional task forces to receive funds under this program, as follows:

(1) Each regional task force that seeks funds shall submit a written application to the department setting forth in detail the proposed use of funds.

(2) Each regional task force shall be identified by a name that is appropriate to the area that it serves. In order to qualify for funds, a regional task force shall be comprised of local law enforcement and prosecutors from at least two counties.

(3) Each task force may consult with experts from the United States military, the California Military Department, law enforcement entities, and various other state and private organizations, including pertinent trade associations, as deemed necessary to maximize the effectiveness of this program.

(4) Priority shall be given to regional task forces outside of the 13 counties funded under the rural crime prevention programs authorized pursuant to Sections 14170 and 14180.

(b) The guidelines shall include all of the following selection criteria that shall be considered by the department in awarding grant funds:

(1) The number of metal theft or related recycling crime cases filed in the prior year.

(2) The number of metal theft or related recycling crime cases investigated in the prior year.

(3) The number of victims involved in the cases filed.

(4) The total aggregate monetary loss suffered by the victims, including damage caused by the theft.

(5) Local funds available to assist the regional task force.

(6) The number of licensed recycling facilities in the region.

14190.40. (a) Each regional task force that has been awarded funds authorized under the program during the previous grant-funding cycle, upon reapplication for funds to the department

in each successive year, shall submit a detailed accounting of funds received and expended in the prior year in addition to any information required by this title.

(b) The accounting shall include all of the following information:

(1) The amount of funds received and expended.

(2) The use to which those funds were put, including payment of salaries and expenses, purchase of equipment and supplies, and other expenditures by type.

(3) The number of filed complaints, investigations, arrests, and convictions that resulted from the expenditure of the funds.

14190.45. (a) The department shall regularly review the effectiveness of the program in deterring, investigating, and prosecuting metal theft and related recycling crimes and shall, notwithstanding Section 10231.5 of the Government Code, present a report to the Legislature and Governor.

(b) The report shall be based on information provided by the regional task forces in an annual report to the department which shall detail all of the following:

(1) The number of metal theft and recycling crime cases filed in the prior year.

(2) The number of metal theft and recycling crime cases investigated in the prior year.

(3) The number of victims involved in the cases filed.

(4) The number of convictions obtained in the prior year.

(5) The total aggregate monetary loss suffered by the victims, including damage caused by the theft.

(6) An accounting of funds received and expended in the prior year, which shall include all of the following:

(A) The amount of funds received and expended.

(B) The uses to which those funds were put, including payment of salaries and expenses, purchase of supplies, and other expenditures.

(C) Any other relevant information requested.

14190.50. (a) The program established pursuant to this title shall not be implemented until the Department of Finance determines that sufficient funds have been deposited in the Metal Theft Task Force Fund to implement the provisions of this title and funds have been made available for the purposes of this title upon appropriation by the Legislature as provided in subdivision (a) of Section 14190.20.

(b) The department shall be required to implement the provisions of this title only upon the availability of funds appropriated for that purpose, in an amount sufficient to cover all costs relating to the startup, implementation, and continuing administration of the provisions of this title.

14190.55. This title shall become operative on January 1, 2015.

Approved _____, 2013

Governor